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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/767,035

01/29/2004

Roy W. Kuennen

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4822

28440

7590

12/06/2006

WARNER, NORCROSS & JUDD  
IN RE: ALTICOR INC.  
INTELLECTUAL PROPERTY GROUP  
111 LYON STREET, N. W. STE 900  
GRAND RAPIDS, MI 49503-2489

EXAMINER

CECIL, TERRY K

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/767,035

**Applicant(s)**

KUENNEN ET AL.

**Examiner**

Mr. Terry K. Cecil

**Art Unit**

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32,34-42 and 71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32, 34-42, 71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following:
  - In the amendment to the paragraph at page 17, lines 12-18, “peak 421 that projects outwardly” should be changed to “...that projects *inwardly*” since as shown in e.g. figure 22, the peak projects *inwardly* toward the longitudinal axis of the reflector.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 71 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In line 7 of the claim, “outward” should be replaced with “inwardly” as shown in figure 22.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

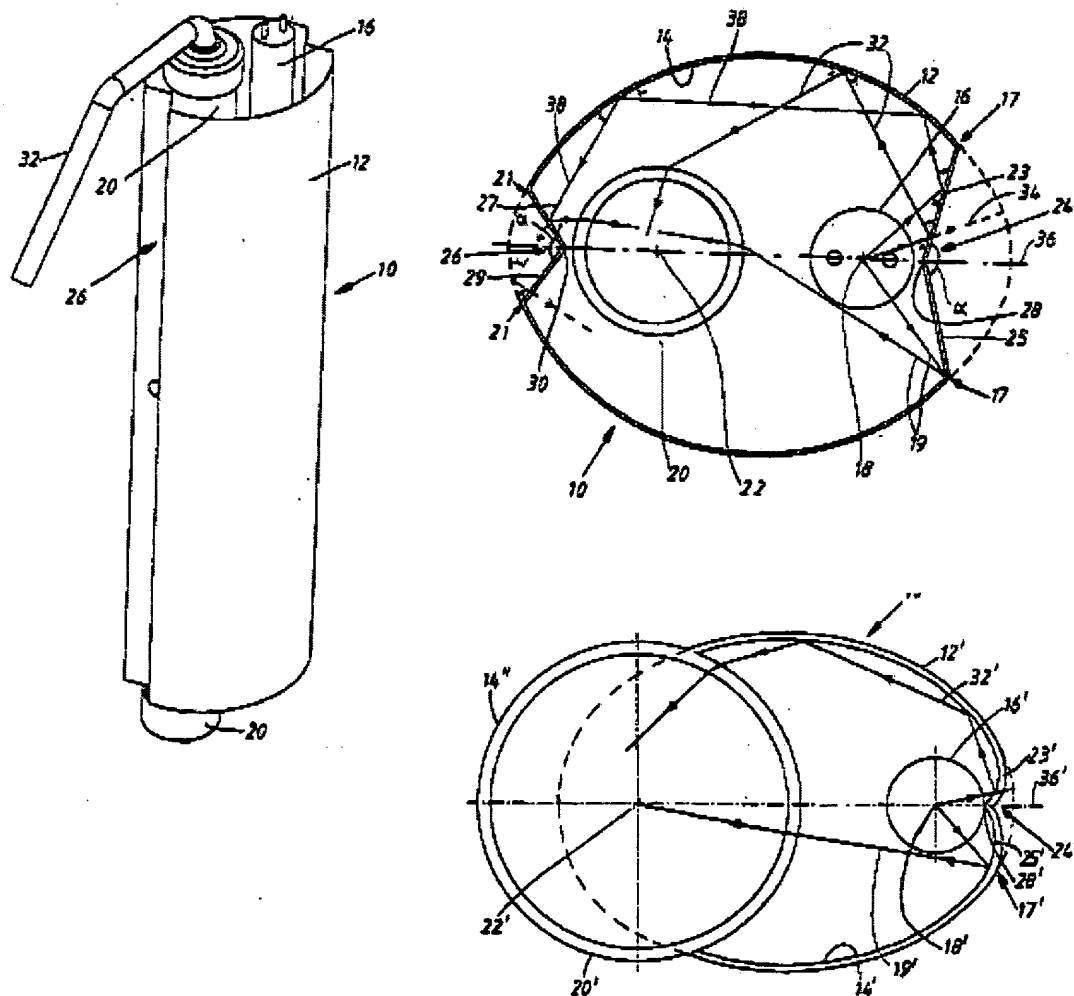
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1723

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 32, 34, 36-37, 40 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 96/33135, hereinafter '135 in view of Lew et al. (U.S. 4,694,179).



Art Unit: 1723

'135 teaches a UV device for use in a water purification unit (page 4, lines 15-17). The device includes a bulb 16 parallel with a fluid conduit 20. The reflector assembly includes a plurality of diminishing radii of curvature terminating at a peak, e.g. 24' of figure 3 (note that page 3, lines 20-22 state that the planar side walls 23, 25 of figure 2 can instead be bending as in figure 3) which projects toward and immediately adjacent the bulb in order to reflect light emitted from the bulb assembly toward the conduit [as in claims 32 and 71]. '135 doesn't specify a housing for the UV device but such is taught by Lew. Lew discloses a lamp assembly comprising a housing made up of two end caps 20, 21 having a respective inlet and outlet therein [as in claims 32, 37, 40, and 71]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the housing of Lew about the UV device of '135, since Lew teaches the benefit of a complete water treatment assembly.

As for claims 34 and 36 each side of the axis 36 is considered to be  $\frac{1}{2}$  of the pair of reflectors and the portions midway of the peaks to be the "generally" planar portion.

6. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over '135 as modified above and in further view of Matschke (U.S. 6,022,511). As explained above, '135 teaches omega-shaped reflectors (when figure 2 includes bended walls 23 and 25 of figure 3). '135 does teach the pair of opposing flanges. However, as shown in figure 5, adjacent the leader of 200, Matschke teaches such flanges. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the flanges of Matschke in the

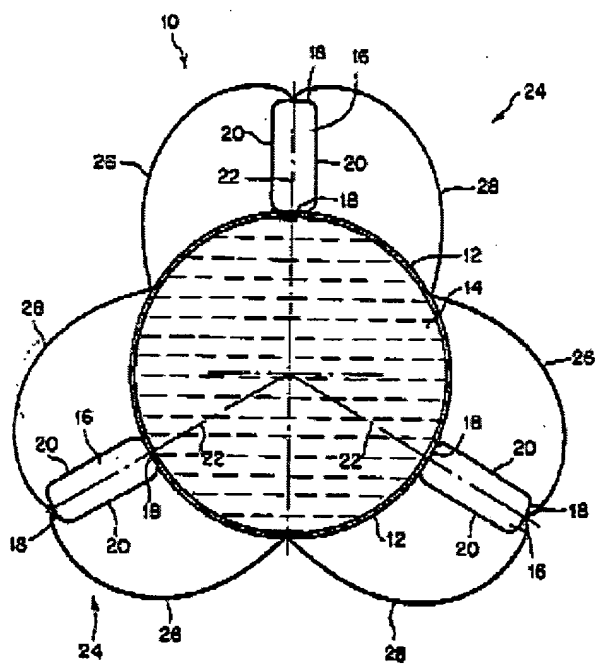
Art Unit: 1723

invention of '135, since Matschke teaches the benefit of joining adjacent reflector portions together.

7. Claims 32, 34, 36-39, 40-42 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over '135 in view of Kool et al. (U.S. 6,245,229). '135 has been expanded above but doesn't teach a housing. However, Kool teaches a housing [as in claims 32 and 71] including cup-shaped end caps and a pair of elongate curved enclosures (26 and a portion of 12) that wrap around the reflector assembly [as in claim 42]. '135 doesn't teach a check valve or a button in the end caps but Kool teaches a check valve 518 in an end cap and a dislodging pin (button) 422 in an upper end cap [as in claims 38-39 and 41]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the check valve of Kool in the invention of '135, since Kool teaches the benefit of controlling flow through the apparatus to prevent return flow and the benefit of a "button" for a light pipe indicator. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the housing of Kool about the UV device of '135, since Kool teaches the benefit of a complete water treatment assembly.

*Response to Arguments*

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection necessitated by amendment. A reflector assembly including a peak adjacent a bulb is known in the art of newly applied '135. See also Wedekamp '980 of record.

*Conclusion*

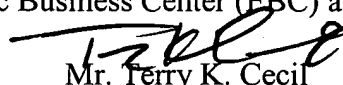
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1723

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (571) 272-1138 at the Carlisle campus in Alexandria, Virginia for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:30a to 4:30p, on at least four days during the week M-F.
- Wanda Walker, the examiner's supervisor, can be reached at (571) 272-1151 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is (571) 273-8300.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mr. Terry K. Cecil  
Primary Examiner  
Art Unit 1723

TKC  
December 2, 2006